

AMENDED IN ASSEMBLY AUGUST 7, 2014

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY JUNE 20, 2013

AMENDED IN SENATE MAY 15, 2013

AMENDED IN SENATE APRIL 4, 2013

## SENATE BILL

**No. 718**

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**Introduced by ~~Senator Yee~~ Senators *Roth and Knight***

*(Principal Coauthors: Assembly Members Cooley, Fox, Medina,  
Muratsuchi, Quirk-Silva, and Salas)*

***(Coauthors: Senators Anderson, Berryhill, Block, Cannella, Fuller,  
Gaines, Hill, Huff, Morrell, Nielsen, Padilla, Vidak, Walters, and  
Wyland)***

*(Coauthors: Assembly Members Achadjian, Alejo, Atkins, Bloom,  
Bocanegra, Bradford, Ian Calderon, Chau, Dickinson, Gorell, Gray,  
Grove, Hall, Harkey, Roger Hernández, Holden, Linder, Maienschein,  
Nazarian, Nestande, Olsen, Pan, V. Manuel Pérez, Waldron, and  
Wilk)*

February 22, 2013

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An act to ~~add Section 6401.8 to the Labor Code, relating to  
employment safety~~ amend Section 51298 of the Government Code, and  
to amend Section 23636 of the Revenue and Taxation Code, relating to  
economic development, and declaring the urgency thereof, to take effect  
immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 718, as amended, ~~Yee Roth. Hospitals: workplace violence prevention plan. Capital investment incentive programs: corporation tax credit: new advanced strategic aircraft program.~~

(1) Existing law, until July 1, 2015, authorizes a county, city and county, or city to establish a capital investment incentive program, pursuant to which the county, city and county, or city is authorized to pay a capital investment incentive amount, as defined, that does not exceed the amount of property tax derived from that portion of the assessed value of a qualified manufacturing facility that exceeds \$25,000,000, to a proponent of a qualified manufacturing facility. Existing law defines a “proponent” as a party and requires a party to meet certain requirements, including that the party will be the fee owner of the qualified manufacturing facility upon the completion of that facility, as provided.

This bill would, until July 1, 2015, additionally authorize the party to be the lessee or the occupant under a government-owned contractor-operator enhanced use lease agreement of the qualified manufacturing facility upon the completion of that facility.

(2) Existing law, the Corporation Tax Law, for taxable years beginning on or after January 1, 2015, and before January 1, 2030, allows, with regard to the manufacture of a new advanced strategic aircraft for the United States Air Force, a credit against the taxes imposed under that law in an amount equal to 17½% of qualified wages, as defined, paid or incurred with respect to qualified full-time employees, as multiplied by an annual full-time equivalent ratio, by the qualified taxpayer, defined as a taxpayer that is a major first-tier subcontractor with regard to the manufacture of that aircraft.

This bill would define a qualified taxpayer to also include a prime contractor awarded a prime contract to manufacture a new advanced strategic aircraft for the United States Air Force. The bill would limit this credit by providing that the aggregate number of total annual full-time equivalents, as defined, of all qualified taxpayers may not exceed 1,100.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law regulates the operation of health facilities, including hospitals.~~

~~Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violation of these provisions a crime.~~

~~This bill would prohibit a hospital, as specified, from preventing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement for a violent incident. The bill would also require a hospital to provide evaluation and treatment, as specified, for an employee who is injured or is otherwise a victim of a violent incident.~~

~~The bill would require a hospital to document and keep for 5 years a written record of all violent incidents against a hospital employee, as defined, and to report to the division any violent incident, as specified. The bill would also authorize the division to assess a civil penalty against a hospital for failure to report a violent incident, as specified. The bill would further require the division to post on its Internet Web site a report regarding violent incidents at hospitals, as specified, and to adopt regulations implementing these provisions by January 1, 2015.~~

~~Because this bill would expand the scope of a crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~<sup>no</sup>.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 51298 of the Government Code, as
- 2     amended by Section 1 of Chapter 116 of the Statutes of 2014, is
- 3     amended to read:
- 4     51298. It is the intent of the Legislature in enacting this chapter
- 5     to provide local governments with opportunities to attract large
- 6     manufacturing facilities to invest in their communities and to
- 7     encourage industries, such as high technology, aerospace,
- 8     automotive, biotechnology, software, environmental sources, and
- 9     others, to locate and invest in those facilities in California.

1 (a) Commencing in the 1998–99 fiscal year, the governing body  
2 of a county, city and county, or city, may, by means of an ordinance  
3 or resolution approved by a majority of its entire membership,  
4 elect to establish a capital investment incentive program. In any  
5 county, city and county, or city in which the governing body has  
6 so elected, the county, city and county, or city shall, upon the  
7 approval by a majority of the entire membership of its governing  
8 body of a written request therefor, pay a capital investment  
9 incentive amount to the proponent of a qualified manufacturing  
10 facility for up to 15 consecutive fiscal years. A request for the  
11 payment of capital investment incentive amounts shall be filed by  
12 a proponent in writing with the governing body of an electing  
13 county, city and county, or city in the time and manner specified  
14 in procedures adopted by that governing body. In the case in which  
15 the governing body of an electing county, city and county, or city  
16 approves a request for the payment of capital investment incentive  
17 amounts, both of the following conditions shall apply:

18 (1) The consecutive fiscal years during which a capital  
19 investment incentive amount is to be paid shall commence with  
20 the first fiscal year commencing after the date upon which the  
21 qualified manufacturing facility is certified for occupancy or, if  
22 no certification is issued, the first fiscal year commencing after  
23 the date upon which the qualified manufacturing facility  
24 commences operation.

25 (2) In accordance with paragraph (4) of subdivision (d), the  
26 annual payment to a proponent of each capital investment incentive  
27 amount shall be contingent upon the proponent's payment of a  
28 community services fee.

29 (b) For purposes of this section:

30 (1) "Qualified manufacturing facility" means a proposed  
31 manufacturing facility that meets all of the following criteria:

32 (A) The proponent's initial investment in that facility, in real  
33 and personal property, necessary for the full and normal operation  
34 of that facility, made pursuant to the capital investment incentive  
35 program, that comprises any portion of that facility or has its situs  
36 at that facility, exceeds one hundred fifty million dollars  
37 (\$150,000,000). Compliance with this subparagraph shall be  
38 certified by the Governor's Office of Business and Economic  
39 Development upon the director's approval of a proponent's  
40 application for certification of a qualified manufacturing facility.

1 An application for certification shall be submitted by a proponent  
2 to the Governor's Office of Business and Economic Development  
3 in writing in the time and manner as specified by the director.

4 (B) The facility is to be located within the jurisdiction of the  
5 electing county, city and county, or city to which the request is  
6 made for payment of capital investment incentive amounts.

7 (C) The facility is operated by any of the following:

8 (i) A business described within Code 3359 or 3364 of the 2012  
9 North American Industry Classification System (NAICS) Manual  
10 published by the United States Office of Management and Budget.

11 (ii) A business engaged in the recovery of minerals from  
12 geothermal resources, including the proportional amount of a  
13 geothermal electric generating plant that is integral to the recovery  
14 process by providing electricity for it.

15 (iii) A business engaged in the manufacturing of parts or  
16 components related to the production of electricity using solar,  
17 wind, biomass, hydropower, or geothermal resources on or after  
18 July 1, 2010.

19 (D) The proponent is currently engaged in any of the following:

20 (i) Commercial production.

21 (ii) The perfection of the manufacturing process.

22 (iii) The perfection of a product intended to be manufactured.

23 (2) "Proponent" means a party or parties that meet all of the  
24 following criteria:

25 (A) The party is named in the application to the county, city  
26 and county, or city within which the qualified manufacturing  
27 facility would be located for a permit to construct a qualified  
28 manufacturing facility.

29 (B) The party will be the fee owner, *lessee, or occupant under*  
30 *a government-owned contractor operator enhanced use lease*  
31 *agreement* of the qualified manufacturing facility upon the  
32 completion of that facility. Notwithstanding the previous sentence,  
33 the party may enter into a sale-leaseback transaction and  
34 nevertheless be considered the proponent.

35 (C) If a proponent that is receiving capital investment incentive  
36 amounts subsequently leases the subject qualified manufacturing  
37 facility to another party, the lease may provide for the payment to  
38 that lessee of any portion of a capital investment incentive amount.  
39 Any lessee receiving any portion of a capital investment incentive

1 amount shall also be considered a proponent for the purposes of  
2 subdivision (d).

3 (3) “Capital investment incentive amount” means, with respect  
4 to a qualified manufacturing facility for a relevant fiscal year, an  
5 amount up to or equal to the amount of ad valorem property tax  
6 revenue ~~derived by~~ *allocated to* the participating local agency,  
7 *which excludes the revenue transfers required by Sections 97.2*  
8 *and 97.3 of the Revenue and Taxation Code*, from the taxation of  
9 that portion of the total assessed value of that real and personal  
10 property described in subparagraph (A) of paragraph (1) that is in  
11 excess of twenty-five million dollars (\$25,000,000).

12 (4) “Manufacturing” means the activity of converting or  
13 conditioning property by changing the form, composition, quality,  
14 or character of the property for ultimate sale at retail or use in the  
15 manufacturing of a product to be ultimately sold at retail.  
16 Manufacturing includes any improvements to tangible personal  
17 property that result in a greater service life or greater functionality  
18 than that of the original property.

19 (c) A city or special district may, upon the approval by a  
20 majority of the entire membership of its governing body, pay to  
21 the county, city and county, or city an amount equal to the amount  
22 of ad valorem property tax revenue allocated to that city or special  
23 district, but not the actual allocation, derived from the taxation of  
24 that portion of the total assessed value of that real and personal  
25 property described in subparagraph (A) of paragraph (1) of  
26 subdivision (b) that is in excess of twenty-five million dollars  
27 (\$25,000,000).

28 (d) A proponent whose request for the payment of capital  
29 investment incentive amounts is approved by an electing county,  
30 city and county, or city shall enter into a community services  
31 agreement with that county, city and county, or city that includes,  
32 but is not limited to, all of the following provisions:

33 (1) A provision requiring that a community services fee be  
34 remitted by the proponent to the county, city and county, or city,  
35 in each fiscal year, in an amount that is equal to 25 percent of the  
36 capital investment incentive amount calculated for that proponent  
37 for that fiscal year, except that in no fiscal year shall the amount  
38 of the community services fee exceed two million dollars  
39 (\$2,000,000).

1 (2) A provision specifying the dates in each relevant fiscal year  
2 upon which payment of the community services fee is due and  
3 delinquent, and the rate of interest to be charged to a proponent  
4 for any delinquent portion of the community services fee amount.

5 (3) A provision specifying the procedures and rules for the  
6 determination of underpayments or overpayments of a community  
7 services fee, for the appeal of determinations of any underpayment,  
8 and for the refunding or crediting of any overpayment.

9 (4) A provision specifying that a proponent is ineligible to  
10 receive a capital investment incentive amount if that proponent is  
11 currently delinquent in the payment of any portion of a community  
12 services fee amount, if the qualified manufacturing facility is  
13 constructed in a manner materially different from the facility as  
14 described in building permit application materials, or if the facility  
15 is no longer operated as a qualified manufacturing facility meeting  
16 the requirements of paragraph (1) of subdivision (b). If a proponent  
17 becomes ineligible to receive a capital investment incentive amount  
18 as a result of an agreement provision included pursuant to this  
19 subparagraph, the running of the number of consecutive fiscal  
20 years specified in an agreement made pursuant to subdivision (a)  
21 is not tolled during the period in which the proponent is ineligible.

22 (5) A provision that sets forth a job creation plan with respect  
23 to the relevant qualified manufacturing facility. The plan shall  
24 specify the number of jobs to be created by that facility, and the  
25 types of jobs and compensation ranges to be created thereby. The  
26 plan shall also specify that for the entire term of the community  
27 services agreement, both of the following shall apply:

28 (A) All of the employees working at the qualified manufacturing  
29 facility shall be covered by an employer-sponsored health benefits  
30 plan, with the exception of any employee who was offered but  
31 declined coverage due to other available group coverage.

32 (B) The average weekly wage, exclusive of overtime, paid to  
33 all of the employees working at the qualified manufacturing  
34 facility, who are not management or supervisory employees, shall  
35 be not less than the state average weekly wage.

36 For the purpose of this subdivision, “state average weekly wage”  
37 means the average weekly wage paid by employers to employees  
38 covered by unemployment insurance, as reported to the  
39 Employment Development Department for the four calendar  
40 quarters ending June 30 of the preceding calendar year.

1 (6) (A) In the case in which the proponent fails to operate the  
2 qualified manufacturing facility as required by the community  
3 services agreement, a provision that requires the recapture of any  
4 portion of any capital investment incentive amounts previously  
5 paid to the proponent equal to the lesser of the following:

6 (i) All of the capital investment incentive amounts paid to the  
7 proponent, less all of the community services fees received from  
8 the proponent, and less any capital investment incentive amounts  
9 previously recaptured.

10 (ii) The last capital investment incentive amount paid to the  
11 proponent, less the last community services fee received from the  
12 proponent, multiplied by 40 percent of the number of years  
13 remaining in the community services agreement, but not to exceed  
14 10 years, and less any capital investment incentive amounts  
15 previously recaptured.

16 (B) If the proponent fails to operate the qualified manufacturing  
17 facility as required by the community services agreement, the  
18 county, city and county, or city may, upon a finding that good  
19 cause exists, waive any portion of the recapture of any capital  
20 investment incentive amount due under this subdivision. For the  
21 purpose of this subdivision, good cause includes, but is not limited  
22 to, the following:

23 (i) The proponent has sold or leased the property to a person  
24 who has entered into an agreement with the county, city and  
25 county, or city to assume all of the responsibilities of the proponent  
26 under the community services agreement.

27 (ii) The qualified manufacturing facility has been rendered  
28 inoperable and beyond repair as a result of an act of God, civil  
29 disorder, failure of power, riots, insurrections, war, acts of  
30 terrorism, or any other causes, whether the kind herein enumerated  
31 or otherwise, not within the control of the qualified manufacturing  
32 facility claiming good cause, which restrict or interfere with a  
33 qualified manufacturing facility's ability to timely perform, and  
34 which by the exercise of reasonable due diligence, such party is  
35 or would have been unable to prevent or overcome.

36 (C) For purposes of this subdivision, failure to operate a  
37 qualified manufacturing facility as required by the community  
38 services agreement includes, but is not limited to, failure to  
39 establish the number of jobs specified in the jobs creation plan  
40 created pursuant to paragraph (5).



1 (e) (1) Each county, city and county, or city that elects to  
2 establish a capital investment incentive program shall notify the  
3 Governor's Office of Business and Economic Development of its  
4 election to do so no later than June 30th of the fiscal year in which  
5 the election was made.

6 (2) In addition to the information required to be reported  
7 pursuant to paragraph (1), each county, city and county, or city  
8 that has elected to establish a capital investment incentive program  
9 shall notify the Governor's Office of Business and Economic  
10 Development each fiscal year no later than June 30th of the amount  
11 of any capital investment incentive payments made and the  
12 proponent of the qualified manufacturing facility to whom the  
13 payments were made during that fiscal year.

14 (3) The Governor's Office of Business and Economic  
15 Development shall compile the information submitted by each  
16 county, city and county, and city pursuant to paragraphs (1) and  
17 (2) and submit a report to the Legislature containing this  
18 information no later than October 1, every two years commencing  
19 October 1, 2000.

20 (f) This section shall become inoperative on July 1, 2015.

21 (g) A capital investment incentive program established pursuant  
22 to this section before the effective date of the act adding this  
23 subdivision may remain in effect for the full term of that program.

24 (h) This section is repealed on January 1, 2016.

25 *SEC. 2. Section 51298 of the Government Code, as added by*  
26 *Section 2 of Chapter 116 of the Statutes of 2014, is amended to*  
27 *read:*

28 51298. It is the intent of the Legislature in enacting this chapter  
29 to provide local governments with opportunities to attract large  
30 manufacturing facilities to invest in their communities and to  
31 encourage industries, such as high technology, aerospace,  
32 automotive, biotechnology, software, environmental sources, and  
33 others, to locate and invest in those facilities in California.

34 (a) Commencing in the 1998–99 fiscal year, the governing body  
35 of a county, city and county, or city, may, by means of an ordinance  
36 or resolution approved by a majority of its entire membership,  
37 elect to establish a capital investment incentive program. In any  
38 county, city and county, or city in which the governing body has  
39 so elected, the county, city and county, or city shall, upon the  
40 approval by a majority of the entire membership of its governing

body of a written request therefor, pay a capital investment incentive amount to the proponent of a qualified manufacturing facility for up to 15 consecutive fiscal years. A request for the payment of capital investment incentive amounts shall be filed by a proponent in writing with the governing body of an electing county, city and county, or city in the time and manner specified in procedures adopted by that governing body. In the case in which the governing body of an electing county, city and county, or city approves a request for the payment of capital investment incentive amounts, both of the following conditions shall apply:

(1) The consecutive fiscal years during which a capital investment incentive amount is to be paid shall commence with the first fiscal year commencing after the date upon which the qualified manufacturing facility is certified for occupancy or, if no certification is issued, the first fiscal year commencing after the date upon which the qualified manufacturing facility commences operation.

(2) In accordance with paragraph (4) of subdivision (d), the annual payment to a proponent of each capital investment incentive amount shall be contingent upon the proponent's payment of a community services fee.

(b) For purposes of this section:

(1) "Qualified manufacturing facility" means a proposed manufacturing facility that meets all of the following criteria:

(A) The proponent's initial investment in that facility, in real and personal property, necessary for the full and normal operation of that facility, made pursuant to the capital investment incentive program, that comprises any portion of that facility or has its situs at that facility, exceeds one hundred fifty million dollars (\$150,000,000). Compliance with this subparagraph shall be certified by the Governor's Office of Business and Economic Development upon the director's approval of a proponent's application for certification of a qualified manufacturing facility. An application for certification shall be submitted by a proponent to the Governor's Office of Business and Economic Development in writing in the time and manner as specified by the director.

(B) The facility is to be located within the jurisdiction of the electing county, city and county, or city to which the request is made for payment of capital investment incentive amounts.

(C) The facility is operated by any of the following:

1 (i) A business described in Codes 3321 to 3399, inclusive, or  
2 Codes 541711 or 541712 of the 2012 North American Industry  
3 Classification System (NAICS) Manual published by the United  
4 States Office of Management and Budget.

5 (ii) A business engaged in the recovery of minerals from  
6 geothermal resources, including the proportional amount of a  
7 geothermal electric generating plant that is integral to the recovery  
8 process by providing electricity for it.

9 (iii) A business engaged in the manufacturing of parts or  
10 components related to the production of electricity using solar,  
11 wind, biomass, hydropower, or geothermal resources on or after  
12 July 1, 2010.

13 (D) The proponent is currently engaged in any of the following:

14 (i) Commercial production.

15 (ii) The perfection of the manufacturing process.

16 (iii) The perfection of a product intended to be manufactured.

17 (2) “Proponent” means a party or parties that meet all of the  
18 following criteria:

19 (A) The party is named in the application to the county, city  
20 and county, or city within which the qualified manufacturing  
21 facility would be located for a permit to construct a qualified  
22 manufacturing facility.

23 (B) The party will be the fee owner of the qualified  
24 manufacturing facility upon the completion of that facility.  
25 Notwithstanding the previous sentence, the party may enter into  
26 a sale-leaseback transaction and nevertheless be considered the  
27 proponent.

28 (C) If a proponent that is receiving capital investment incentive  
29 amounts subsequently leases the subject qualified manufacturing  
30 facility to another party, the lease may provide for the payment to  
31 that lessee of any portion of a capital investment incentive amount.  
32 Any lessee receiving any portion of a capital investment incentive  
33 amount shall also be considered a proponent for the purposes of  
34 subdivision (d).

35 (3) “Capital investment incentive amount” means, with respect  
36 to a qualified manufacturing facility for a relevant fiscal year, an  
37 amount up to or equal to the amount of ad valorem property tax  
38 revenue ~~derived by~~ *allocated to* the participating local agency,  
39 *which excludes the revenue transfers required by Sections 97.2*  
40 *and 97.3 of the Revenue and Taxation Code*, from the taxation of

1 that portion of the total assessed value of that real and personal  
2 property described in subparagraph (A) of paragraph (1) that is in  
3 excess of one hundred fifty million dollars (\$150,000,000).

4 (4) “Manufacturing” means the activity of converting or  
5 conditioning property by changing the form, composition, quality,  
6 or character of the property for ultimate sale at retail or use in the  
7 manufacturing of a product to be ultimately sold at retail.  
8 Manufacturing includes any improvements to tangible personal  
9 property that result in a greater service life or greater functionality  
10 than that of the original property.

11 (c) A city or special district may, upon the approval by a  
12 majority of the entire membership of its governing body, pay to  
13 the county, city and county, or city an amount equal to the amount  
14 of ad valorem property tax revenue allocated to that city or special  
15 district, but not the actual allocation, derived from the taxation of  
16 that portion of the total assessed value of that real and personal  
17 property described in subparagraph (A) of paragraph (1) of  
18 subdivision (b) that is in excess of one hundred fifty million dollars  
19 (\$150,000,000).

20 (d) A proponent whose request for the payment of capital  
21 investment incentive amounts is approved by an electing county,  
22 city and county, or city shall enter into a community services  
23 agreement with that county, city and county, or city that includes,  
24 but is not limited to, all of the following provisions:

25 (1) A provision requiring that a community services fee be  
26 remitted by the proponent to the county, city and county, or city,  
27 in each fiscal year, in an amount that is equal to 25 percent of the  
28 capital investment incentive amount calculated for that proponent  
29 for that fiscal year, except that in no fiscal year shall the amount  
30 of the community services fee exceed two million dollars  
31 (\$2,000,000).

32 (2) A provision specifying the dates in each relevant fiscal year  
33 upon which payment of the community services fee is due and  
34 delinquent, and the rate of interest to be charged to a proponent  
35 for any delinquent portion of the community services fee amount.

36 (3) A provision specifying the procedures and rules for the  
37 determination of underpayments or overpayments of a community  
38 services fee, for the appeal of determinations of any underpayment,  
39 and for the refunding or crediting of any overpayment.

1 (4) A provision specifying that a proponent is ineligible to  
2 receive a capital investment incentive amount if that proponent is  
3 currently delinquent in the payment of any portion of a community  
4 services fee amount, if the qualified manufacturing facility is  
5 constructed in a manner materially different from the facility as  
6 described in building permit application materials, or if the facility  
7 is no longer operated as a qualified manufacturing facility meeting  
8 the requirements of paragraph (1) of subdivision (b). If a proponent  
9 becomes ineligible to receive a capital investment incentive amount  
10 as a result of an agreement provision included pursuant to this  
11 subparagraph, the running of the number of consecutive fiscal  
12 years specified in an agreement made pursuant to subdivision (a)  
13 is not tolled during the period in which the proponent is ineligible.

14 (5) A provision that sets forth a job creation plan with respect  
15 to the relevant qualified manufacturing facility. The plan shall  
16 specify the number of jobs to be created by that facility, and the  
17 types of jobs and compensation ranges to be created thereby. The  
18 plan shall also specify that for the entire term of the community  
19 services agreement, both of the following shall apply:

20 (A) All of the employees working at the qualified manufacturing  
21 facility shall be covered by an employer-sponsored health benefits  
22 plan, with the exception of any employee who was offered but  
23 declined coverage due to other available group coverage.

24 (B) The average weekly wage, exclusive of overtime, paid to  
25 all of the employees working at the qualified manufacturing  
26 facility, who are not management or supervisory employees, shall  
27 be not less than the state average weekly wage. For the purpose  
28 of this subdivision, “state average weekly wage” means the average  
29 weekly wage paid by employers to employees covered by  
30 unemployment insurance, as reported to the Employment  
31 Development Department for the four calendar quarters ending  
32 June 30 of the preceding calendar year.

33 (6) (A) In the case in which the proponent fails to operate the  
34 qualified manufacturing facility as required by the community  
35 services agreement, a provision that requires the recapture of any  
36 portion of any capital investment incentive amounts previously  
37 paid to the proponent equal to the lesser of the following:

38 (i) All of the capital investment incentive amounts paid to the  
39 proponent, less all of the community services fees received from

1 the proponent, and less any capital investment incentive amounts  
2 previously recaptured.

3 (ii) The last capital investment incentive amount paid to the  
4 proponent, less the last community services fee received from the  
5 proponent, multiplied by 40 percent of the number of years  
6 remaining in the community services agreement, but not to exceed  
7 10 years, and less any capital investment incentive amounts  
8 previously recaptured.

9 (B) If the proponent fails to operate the qualified manufacturing  
10 facility as required by the community services agreement, the  
11 county, city and county, or city may, upon a finding that good  
12 cause exists, waive any portion of the recapture of any capital  
13 investment incentive amount due under this subdivision. For the  
14 purpose of this subdivision, good cause includes, but is not limited  
15 to, the following:

16 (i) The proponent has sold or leased the property to a person  
17 who has entered into an agreement with the county, city and  
18 county, or city to assume all of the responsibilities of the proponent  
19 under the community services agreement.

20 (ii) The qualified manufacturing facility has been rendered  
21 inoperable and beyond repair as a result of an act of God, civil  
22 disorder, failure of power, riots, insurrections, war, acts of  
23 terrorism, or any other causes, whether the kind herein enumerated  
24 or otherwise, not within the control of the qualified manufacturing  
25 facility claiming good cause, which restrict or interfere with a  
26 qualified manufacturing facility's ability to timely perform, and  
27 which by the exercise of reasonable due diligence, such party is  
28 or would have been unable to prevent or overcome.

29 (C) For purposes of this subdivision, failure to operate a  
30 qualified manufacturing facility as required by the community  
31 services agreement includes, but is not limited to, failure to  
32 establish the number of jobs specified in the jobs creation plan  
33 created pursuant to paragraph (5).

34 (e) (1) Each county, city and county, or city that elects to  
35 establish a capital investment incentive program shall notify the  
36 Governor's Office of Business and Economic Development of its  
37 election to do so no later than June 30th of the fiscal year in which  
38 the election was made.

39 (2) In addition to the information required to be reported  
40 pursuant to paragraph (1), each county, city and county, or city

1 that has elected to establish a capital investment incentive program  
2 shall notify the Governor's Office of Business and Economic  
3 Development each fiscal year no later than June 30th of the amount  
4 of any capital investment incentive payments made and the  
5 proponent of the qualified manufacturing facility to whom the  
6 payments were made during that fiscal year.

7 (3) The Governor's Office of Business and Economic  
8 Development shall compile the information submitted by each  
9 county, city and county, and city pursuant to paragraphs (1) and  
10 (2) and submit a report to the Legislature containing this  
11 information no later than October 1, every two years commencing  
12 October 1, 2016.

13 (f) This section shall become operative on July 1, 2015.

14 *SEC. 3. Section 23636 of the Revenue and Taxation Code is*  
15 *amended to read:*

16 23636. (a) For each taxable year beginning on or after January  
17 1, 2015, and before January 1, 2030, a qualified taxpayer shall be  
18 allowed a credit against the "tax," as defined in Section 23036, in  
19 an amount equal to 17 ½ percent of qualified wages paid or incurred  
20 by the qualified taxpayer during the taxable year to qualified  
21 full-time employees multiplied by the annual full-time equivalent  
22 ratio: employees, subject to the limitations under subdivision (c).

23 (b) For purposes of this section:

24 (1) "Annual full-time equivalent" means either of the following:

25 (A) In the case of a qualified full-time employee paid hourly  
26 qualified wages, "annual full-time equivalent" means the total  
27 number of hours worked for the qualified taxpayer by the qualified  
28 full-time employee, not to exceed 2,000 hours per employee,  
29 divided by 2,000.

30 (B) In the case of a salaried qualified full-time employee,  
31 "annual full-time equivalent" means the total number of weeks  
32 worked for the qualified taxpayer by the qualified employee  
33 divided by 52.

34 ~~(2) "Annual full-time equivalent ratio" means a ratio, the~~  
35 ~~numerator of which is 1,100 and the denominator of which is the~~  
36 ~~number of a qualified taxpayer's qualified full-time employees~~  
37 ~~computed on an annual full-time equivalent basis for the taxable~~  
38 ~~year. The annual full-time equivalent ratio may not be greater than~~  
39 ~~one.~~

40 (3)

(2) “Qualified full-time employee” means an individual that is employed in this state by the qualified taxpayer and satisfies both of the following:

(A) The individual’s services for the qualified taxpayer are *performed in this state and are* at least 80 percent directly related to the qualified taxpayer’s *prime contract or* subcontract to design, test, manufacture property, or otherwise support production of property for ultimate use in or as a component of a new advanced strategic aircraft for the United States Air Force.

(B) The individual is paid compensation from the qualified taxpayer that satisfies either of the following conditions:

(i) Is *paid* qualified wages—~~paid~~ by the qualified taxpayer for services not less than an average of 35 hours per week.

(ii) Is *paid* a salary—~~paid~~ by the qualified taxpayer as compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code.

~~(4)~~

(3) “Qualified taxpayer” means any taxpayer that is *either a prime contractor awarded a prime contract or* a major first-tier subcontractor awarded a subcontract to manufacture property for ultimate use in or as a component of a new advanced strategic aircraft for the United States Air Force. *For purposes of this paragraph, the term “prime contractor” means a contractor that was awarded a prime contract for the manufacturing of a new advanced strategic aircraft for the United States Air Force.* For purposes of this paragraph, the term “major first-tier subcontractor” means a subcontractor that was awarded a subcontract in an amount of at least 35 percent of the amount of the initial prime contract awarded for the manufacturing of a new advanced strategic aircraft for the United States Air Force.

~~(5)~~

(4) “Qualified wages” means wages paid or incurred by the qualified taxpayer during the taxable year with respect to qualified full-time employees that are direct labor costs, within the meaning of Section 263A of the Internal Revenue Code, relating to capitalization and inclusion in inventory costs of certain expenses, allocable to property manufactured in this state by the qualified taxpayer for ultimate use in or as a component of a new advanced strategic aircraft for the United States Air Force.

~~(6)~~



1 (5) “New advanced strategic aircraft for the United States Air  
2 Force” means a new advanced strategic aircraft developed and  
3 produced for the United States Air Force under the New Advanced  
4 Strategic Aircraft Program.

5 ~~(7)~~

6 (6) “New Advanced Strategic Aircraft Program” means the  
7 project ~~designed~~ to design, test, manufacture, or otherwise support  
8 production of a new advanced strategic aircraft for the United  
9 States Air Force under a contract that is expected to be awarded  
10 in the first or second calendar quarter of 2015. *“New Advanced  
11 Strategic Aircraft Program” does not include any contract awarded  
12 prior to August 1, 2014, and does not include a program to  
13 upgrade, modernize, sustain, or otherwise modify a current United  
14 States Air Force bomber program, including, but not limited to,  
15 the B-52, B-1, or B-2 programs.*

16 (7) *“Total annual full-time equivalents” means the number of  
17 a qualified taxpayer’s qualified full-time employees computed on  
18 an annual full-time equivalent basis for the taxable year.*

19 (c) (1) The total aggregate amount of the credit that may be  
20 allowed to all qualified taxpayers pursuant to this section shall be  
21 as follows:

22 (A) In years one through five of the credit, the total aggregate  
23 amount of the credit that may be allowed to all qualified taxpayers  
24 pursuant to this section shall not exceed twenty- five million dollars  
25 (\$25,000,000) per calendar year.

26 (B) In years 6 through 10 of the credit, the total aggregate  
27 amount of the credit that may be allowed to all qualified taxpayers  
28 pursuant to this section shall not exceed twenty-eight million  
29 dollars (\$28,000,000) per calendar year.

30 (C) In years 11 through 15 of the credit, the total aggregate  
31 amount of the credit that may be allowed to all qualified taxpayers  
32 pursuant to this section shall not exceed thirty-one million dollars  
33 (\$31,000,000) per calendar year.

34 (2) *The aggregate number of total annual full-time equivalents  
35 of all qualified taxpayers with respect to which a credit amount  
36 may be allowed under this section for a calendar year shall not  
37 exceed 1,100.*

38 ~~(2)~~

39 (3) (A) The Franchise Tax Board shall allocate the credit to the  
40 *qualified* taxpayers on a first-come-first-served ~~basis~~: basis,

1 *determined by the date the qualified taxpayer's timely filed original*  
2 *tax return is received by the Franchise Tax Board. If the returns*  
3 *of two or more qualified taxpayers are received on the same day*  
4 *and the amount of credit remaining to be allocated is insufficient*  
5 *to be allocated fully to each, the credit remaining shall be allocated*  
6 *to those qualified taxpayers on a pro-rata basis.*

7 (B) *For purposes of this paragraph, the date a return is received*  
8 *shall be determined by the Franchise Tax Board. The determination*  
9 *of the Franchise Tax Board as to the date a return is received and*  
10 *whether a return has been timely filed for purposes of this*  
11 *paragraph may not be reviewed in any administrative or judicial*  
12 *proceeding.*

13 (C) *Any disallowance of a credit claimed due to the limitations*  
14 *specified in this subdivision shall be treated as a mathematical*  
15 *error appearing on the return. Any amount of tax resulting from*  
16 *that disallowance may be assessed by the Franchise Tax Board in*  
17 *the same manner as provided in Section 19051.*

18 ~~(3)~~

19 (4) *The credit allowed under this section must be claimed on a*  
20 *timely filed original return.*

21 (d) *In the case where the credit allowed by this section exceeds*  
22 *the "tax," the excess may be carried over to reduce the "tax" in*  
23 *the following year, and the seven succeeding years if necessary,*  
24 *until the credit is exhausted.*

25 (e) *A credit shall not be allowed unless the credit was reflected*  
26 *within the bid upon which the qualified taxpayer's prime contract*  
27 *or subcontract to manufacture property for ultimate use in or as a*  
28 *component of a New Advanced Strategic Aircraft Program is based*  
29 *by reducing the amount of the bid by a good faith estimate of the*  
30 *amount of the credit allowable under this section.*

31 (f) *All references to the credit and ultimate cost reductions*  
32 *incorporated into any successful bid that was awarded a prime*  
33 *contract or subcontract and for which a qualified taxpayer is*  
34 *making a claim shall be made available to the Franchise Tax Board*  
35 *upon request.*

36 (g) *If the qualified taxpayer is allowed a credit pursuant to this*  
37 *section for qualified wages paid or incurred, only one credit shall*  
38 *be allowed to the taxpayer under this part with respect to any wage*  
39 *consisting in whole or in part of those qualified wages.*

1 (h) (1) The Franchise Tax Board may prescribe regulations  
2 necessary or appropriate to carry out the purposes of this section.

3 (2) The Franchise Tax Board may also prescribe rules,  
4 guidelines, or procedures necessary or appropriate to carry out the  
5 purposes of this section. Chapter 3.5 (commencing with Section  
6 11340) of Part 1 of Division 3 of Title 2 of the Government Code  
7 shall not apply to any rule, guideline, or procedure prescribed by  
8 the Franchise Tax Board pursuant to this section.

9 (i) This section shall remain in effect only until December 1,  
10 2030, and as of that date is repealed.

11 *SEC. 4. This act is an urgency statute necessary for the*  
12 *immediate preservation of the public peace, health, or safety within*  
13 *the meaning of Article IV of the Constitution and shall go into*  
14 *immediate effect. The facts constituting the necessity are:*

15 *In order to, as soon as possible, further promote economic*  
16 *development in California related to the manufacture of property*  
17 *to be used for a new advanced strategic aircraft for the United*  
18 *States Air Force, and to authorize a local government to pay a*  
19 *related capital investment amount to a specified lessee or occupant*  
20 *of the qualified manufacturing facility upon the completion of that*  
21 *facility, it is necessary that this act take effect immediately.*

22  
23  
24 **All matter omitted in this version of the bill**  
25 **appears in the bill as amended in the**  
26 **Assembly, September 3, 2013. (JR11)**  
27